

December 8, 2003

ENERGY & ENVIRONMENT
COMMITTEE
REPORT NO. 17

ALL MEMBERS PRESENT EXCEPT LEGISLATOR LARSON. CHAIRMAN SWANICK
PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, that the following items are received and filed.

Item Page -2003 (Comm. 22M-4)
a. **NYSDEC:** Fact Sheet – Brownfields Site Investigation – Franczyk Park – 564 Babcock
Street.
(5-0) Legislator Larson absent. Chairman Swanick present as Ex-Officio Member.

Item Page -2003 (Comm. 22M-6)
b. **NYSDEC:** Fact Sheet – Alltft Landfill & Ramco Steel Hazardous Waste Sites.
(5-0) Legislator Larson absent. Chairman Swanick present as Ex-Officio Member.

Item Page -2003 (Comm. 24E-39)
c. **COUNTY EXECUTIVE:** ECSD No. 6 – Construction Inspection Service Agreement –
Work Order DG-7.
(5-0) Legislator Larson absent. Chairman Swanick present as Ex-Officio Member.

Item Page -2003 (Comm. 24E-42)
d. **SWANICK:** Appointment to Erie County Agricultural & Farmland Protection Board.
(5-0) Legislator Larson absent. Chairman Swanick present as Ex-Officio Member.

2. Item Page -2003 (Comm. 20E-47)

COUNTY EXECUTIVE
RESOLUTION NO. _____

RESOLUTION DATED _____, 2003

A RESOLUTION APPROVING (1) AN INCREASE AND IMPROVEMENT OF FACILITIES
FOR ERIE COUNTY SEWER DISTRICT NO. 5 IN THE COUNTY OF ERIE, NEW YORK AND
(2) AN APPLICATION TO THE STATE COMPTROLLER FOR CONSENT FOR
EXPENDITURE OF FUNDS FOR SAID INCREASE AND IMPROVEMENT OF FACILITIES.

(Introduced) December 8, 2003.

(Adopted) _____, 2003.

WHEREAS, The County Legislature of the County of Erie, New York, has heretofore
duly caused to be prepared a report and estimate of cost, by the County Engineers (Erie County
Department of Environment and Planning) relating to an increase and improvement of the facilities

of Erie County Sewer District No. 5, which report and estimate of cost have been filed with the County Legislature pursuant to Section 268 of the County Law; and

WHEREAS, such report and estimate of cost have been accepted and adopted on October 9, 2003 by the Board of Managers of said District pursuant to a written resolution which has been filed with said County Legislature; and

WHEREAS, said report and estimate of cost describe a proposed increase and improvement of the facilities of said District No. 5 in said County, consisting of the replacement of approximately 18,000 feet of sewer pipe, reconstruction of the District's pumping stations and the acquisition and installation of monitoring and reporting hardware, all as more fully described in the report and estimate of cost herein referred to; and

WHEREAS, the maximum estimated cost of the aforesaid increase and improvement of the facilities of said Sewer District is \$3,000,000; and

WHEREAS, the consent of the State Comptroller must be obtained prior to the expenditure for said increase and improvement if such expenditure is to be financed by the issuance of bonds or notes of the County therefor, and the cost thereof to the Typical Property (as defined in the County Law), which is \$20.90 for the Town of Clarence and \$16.15 for the Town of Amherst, is above the Average Estimated Cost of \$12.00 to the Typical Properties for similar types of expenditures, as computed by the State Comptroller, in accordance with the provisions of Section 268 of the County Law; and

WHEREAS, said County Legislature duly adopted Resolution No. 595 on the 13th day of November, 2003, calling a meeting of the County Legislature for the purpose of holding a public hearing on the aforesaid increase and improvement of facilities in accordance with the aforesaid report and estimate of cost; and

WHEREAS, said County Legislature has heretofore duly caused to be prepared by the Department of Environment and Planning an Application to the State Comptroller for his consent to the total expenditure for such increase and improvement, such Application to be executed and verified by and on behalf of the County by the County Executive; and

WHEREAS, said public hearing was duly held at 92 Franklin Street, 2nd Floor, Part 6, Buffalo, New York, in said County, on the 11th day of December, 2003, at 1:30 o'clock P.M., Prevailing Time; and

WHEREAS, notice of said public hearing was duly published in the manner provided by law and proof thereof was submitted to said County Legislature; and

WHEREAS, said County Legislature has duly considered the evidence given at such public hearing; and

WHEREAS, said County Legislature has reviewed said Application, as prepared by the Department of Environment and Planning; and

WHEREAS, the aforesaid increase and improvement has been determined to be a "Type II Action" pursuant to the Regulations of the New York State Department of Environmental Conservation promulgated pursuant to the State Environmental Quality Review Act, the implementation of which as proposed will not result in any significant environmental impacts;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY LEGISLATURE OF THE COUNTY OF ERIE, NEW YORK, AS FOLLOWS:

Section 1. Upon the evidence given at the aforesaid public hearing, it is hereby found and determined that it is in the public interest to increase and improve the facilities of Erie County Sewer District No. 5 in the County of Erie, New York, all as more fully described in the preambles hereof, and such increase and improvement of facilities is hereby authorized at a maximum estimated cost of \$3,000,000.

Section 2. Said Application to the State Comptroller was prepared at the direction of said County Legislature;

Section 3. Said County Legislature believes the contents of the Application to be accurate.

Section 4. Said County Legislature has determined that the expenditure for which consent is sought is in the public interest and will not constitute an undue burden on the property which will bear the cost thereof.

Section 5. The cost of the proposed expenditure is to be assessed against a benefitted area which consists of the entire area of Erie County Sewer District No. 5.

Section 6. Said Application is hereby directed to be forwarded by the County Executive to the State Comptroller to obtain his consent to the total expenditure authorized herein, and such expenditure shall not be made or contract let for the purposes authorized herein until such consent has been obtained.

Section 7. This resolution shall take effect immediately.
(5-0) Legislator Larson absent. Chairman Swanick present as Ex-Officio Member.

3. Item Page -2003 (Comm. 24E-10)
 COUNTY EXECUTIVE

WHEREAS, the utility aggregate experienced a growth in the number of members enrolled again in 2003, and

WHEREAS, the price of natural gas and electricity experienced unexpected fluctuations, and

WHEREAS, the actual expenditure for utilities within the Utility Enterprise Fund have exceeded the budget set for the year 2003 by \$3.0 million, and

WHEREAS, the bills paid under the Utility Enterprise Fund are then billed to the various municipalities and County departments as a source of revenue, and

WHEREAS, without an increase in the budget for the Utility Enterprise Fund, the utility bills cannot be paid,

NOW, THEREFORE, BE IT,

RESOLVED, that the budget for the Utility Enterprise Fund shall be increased from \$31,824,896 to \$34,824,896 with the appropriations in Account 820, Utility Expense, and the revenues in Account 487, Other General Services – Other Governments being increased by a total of \$3.0 million, and be it further,

RESOLVED, that two copies of this resolution be sent to the Department of Public Works, Office of the Commissioner; one copy to the Division of Budget Management & Finance; and one copy to the Office of the Comptroller.

(5-0) Legislator Larson absent. Chairman Swanick present as Ex-Officio Member.

4. Item Page -2003 (Comm. 24E-20)

COUNTY EXECUTIVE

WHEREAS, the 2004 Assessment Rolls for Erie County Sewer District Nos. 1-6 describing each lot or parcel of land have been prepared by the Division of Sewerage Management; and

WHEREAS, the Division of Sewerage Management has also assessed the estimate of expenditures and proportioned them to the lots and parcels of land as nearly as may be to the benefit which each lot or parcel will derive therefrom; and

WHEREAS, the Clerk of the Legislature had a Notice of Public Hearing published in the official County newspapers at least five (5) days prior to the date of the Public Hearing which informed the public that the Assessment Rolls would be open for public inspection on and after the first day of October, 2003; and

WHEREAS, said Public Hearing was held in the Chamber of the Erie County Legislature, 92 Franklin Street, 2nd Floor, Part 6, Buffalo, New York, at 1:30 p.m., local time on November 13, 2003 and that all persons desiring to be heard were duly heard and that all objections have been heard and considered; and

WHEREAS, said Assessment Rolls, estimate of expenditures, and Public Hearing were carried out in accordance with Article 5A, Sections 270 and 271 of County Law.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature does hereby affirm and adopt the 2004 Assessment Rolls for Erie County Sewer District Nos. 1, 2, 3, 4, 5 and 6; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send a certified copy of this resolution to Charles J. Alessi, P.E., Deputy Commissioner, Department of Environment and Planning, Nancy A. Naples, County Comptroller, and Gregory Dudek, Assistant County Attorney. (5-0) Legislator Larson absent. Chairman Swanick present as Ex-Officio Member.

5. Item Page -2003 (Comm. 24E-22)

COUNTY EXECUTIVE

WHEREAS, Erie County is interested in assisting with the effort by the members of the Southtowns Consortium Water Study to provide potable water to their residents; and

WHEREAS, Erie County desires to encourage efforts to sustain and improve neighborhoods and communities within the County; and

WHEREAS, the members of the Consortium have areas of their communities obtaining potable water from well systems; and

WHEREAS, the members of the Consortium desire to upgrade these well water systems in order to provide service from the Erie County Water Authority (ECWA); and

WHEREAS, Erie County desires to work with the members of the Consortium in implementing this process,

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is authorized to enter into contracts not to exceed a total of twenty thousand dollars (\$20,000), with the Towns of Colden, Eden and Holland who represent members of the Consortium; and be it further

RESOLVED, that the source of the funds will be \$20,000 available in the Regionalism / Economic Development Fund, DAC 110 904 303 830 1299, which will be transferred to new sub-account under Agency Payments monitored by the Department of Environment and Planning, Fund 110, Project 922, Department 302, Account 830; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send certified copies of this resolution to the Director of the Division of Budget, Management and Finance, the Comptroller, the Commissioner of the Department of Environment and Planning, and the County Attorney. (5-0) Legislator Larson absent. Chairman Swanick present as Ex-Officio Member.

6. Item Page -2003 (Comm. 24E-37)

COUNTY EXECUTIVE

WHEREAS, the Erie County Legislature had awarded Contract 11BV to Tom Greenauer Development, Inc. for the Erie County Sewer District No. 3 Creekside Sewer Replacement; and

WHEREAS, the Erie County Division of Sewerage Management has advised the Legislature that all scheduled improvements are now completed; and

WHEREAS, the Erie County Department of Environment and Planning has recommended the acceptance of Contract 11BV in the final contract amount of \$716,328.48 which includes a \$90,000.00 Grant from the Community Development Block Grant Fund awarded to the Town of Boston, and Change Order No.2 final, a decrease of \$5,205.52, and approval for final payment.

NOW, THEREFORE, BE IT

RESOLVED, that Contract 11BV between the County of Erie and Tom Greenauer Development, Inc., P.O. Box 250, Springbrook, New York 14140 is accepted in the amount of \$716,328.48, which includes a \$90,000.00 Grant from the Community Development Block Grant Fund awarded to the Town of Boston, and Change Order No.2 final, a decrease of \$5,205.52, and final payment is approved; and be it further

RESOLVED, that the Erie County Comptroller is hereby authorized and directed to finalize Contract 11BV between the County of Erie and Tom Greenauer Development, Inc. in the amount of \$716,328.48 and make final payment from Sewer Capital, Erie County Sewer District No.3 Fund No.430, Project No.510; and cancel any unused balances; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send two (2) certified copies of this resolution to Charles J. Alessi, P.E., Department of Environment and Planning, and one certified copy to the Director of Budget and Management, Erie County Comptroller's Office and Gregory Dudek, Assistant County Attorney.

(5-0) Legislator Larson absent. Chairman Swanick present as Ex-Officio Member.

7. Item Page -2003 (Comm. 24E-38)

COUNTY EXECUTIVE

WHEREAS, the Erie County Legislature has secured the services of Pratt & Huth Associates, LLP, to provide engineering services, and

WHEREAS, the Erie County Department of Environment and Planning, Division of Sewerage Management has advised the Legislature that all engineering services are now complete, and

WHEREAS, the Erie County Department of Environment and Planning, Division of Sewerage Management has recommended the formal close-out of the Engineering Agreement with Pratt & Huth Associates, LLP dated November 5, 1998 at the final contract amount of \$8,071.96.

NOW, THEREFORE, BE IT

RESOLVED, that the Engineering Agreement November 5, 1998 between the County of Erie/Erie County Sewer District Nos. 2 & 5 and Pratt & Huth Associates, LLP be formally closed-out in the final contract amount of \$8,071.96, and be it further

RESOLVED, that the Erie County Comptroller is hereby authorized and directed to formally close-out the Engineering Agreement between the County of Erie/Erie County Sewer Districts No.2 & 5 and Pratt & Huth Associates, LLP dated November 5, 1998, and be it further

RESOLVED, that the Clerk of Legislature be directed to send two (2) certified copies of this resolution to Charles J. Alessi, P.E., Department of Environment and Planning, and one certified copy each to Gregory Dudek, Assistant County Attorney and John S. Rizzo, Deputy Comptroller. (5-0) Legislator Larson absent. Chairman Swanick present as Ex-Officio Member.

8. Item Page -2003 (Comm. 24E-40)

COUNTY EXECUTIVE

WHEREAS, Capital Project 430 519, Acquisition of Facilities (1983) will be closed out in 2003; and

WHEREAS, there is a cash balance of \$463,993.88 as of September 30, 2003; and

WHEREAS, there is a debt service balance of \$2,624,222 remaining for this project; and

WHEREAS, the use of said cash will have no impact on the approved 2003 Budget.

NOW, THEREFORE, BE IT

RESOLVED, Capital Project 430 519 be closed and that \$463,993.88 and any additional accrued interest be transferred to the Debt Service Fund to satisfy the remaining outstanding debt; and be it further

RESOLVED, that the Clerk of the Legislature be authorized and directed to send certified copies of this resolution to Charles J. Alessi, P.E., Deputy Commissioner, Department of Environment and Planning, Nancy Naples, Erie County Comptroller, Joseph Passafiume, Director, Budget and Management, and Gregory Dudek, Assistant County Attorney. (5-0) Legislator Larson absent. Chairman Swanick present as Ex-Officio Member.

9. Item Page -2003 (Comm. 24E-41)

COUNTY EXECUTIVE

WHEREAS, Capital Project 430-532, Increase and Improvement of Facilities 1989, will be closed out in 2003; and

WHEREAS, there is a restricted cash balance of \$10,112.48 plus accrued interest and an unrestricted deficit of \$3,439.83 as of September 30, 2003; and

WHEREAS, there is debt service remaining for this project; and

WHEREAS, the use of said cash will have an impact of \$3,439.83 on the approved 2003 Sewer Fund Operating Budget.

NOW, THEREFORE, BE IT

RESOLVED, that \$10,112.48 and any additional accrued interest be transferred from the Capital Fund into Erie County Sewer District No. 6 Debt Service Fund for future Debt Service payments; and be it further

RESOLVED, \$3,439.83 be transferred from Fund Balance to the Bond Account 430 532 to offset the unrestricted cash deficit; and be it further

RESOLVED, that the Clerk of the Legislature be authorized and directed to send certified copies of this resolution to Charles J. Alessi, P.E., Deputy Commissioner, Department of Environment and Planning, Nancy Naples, Erie County Comptroller, Joseph Passafiume, Director, Budget and Management and Gregory Dudek, Assistant County Attorney.
(5-0) Legislator Larson absent. Chairman Swanick present as Ex-Officio Member.

JEANNE Z. CHASE
CHAIRPERSON